



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES
WASTE MANAGEMENT COUNCIL

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STATE OF NEW HAMPSHIRE
WASTE MANAGEMENT COUNCIL

Decision & Order

*Motion For Rehearing
On Motion to Extend Time*

Docket No. 03-05 WMC

Appeal of Town of Bethlehem, NH
In re: Permit No. DES-SW-SP-03-002

Background

On April 14, 2003, Attorney Brenda E. Keith filed a *Petition for Appeal* of DES Permit No. DES-SW-SP-03-002 ("the permit") on behalf of the Town of Bethlehem, NH ("the Appellant") with the NH Waste Management Council ("the Council").

On April 21, 2003 Attorney Maureen D. Smith filed an *Appearance* with the Council on behalf of the Department of Environmental Services, Waste Management Division ("DES").

On April 21, 2003 Attorney Gould filed an *Assented-To Motion to Intervene* with the Council on behalf of North Country Environmental Services ("NCES").

On April 24, 2003 the Council voted to accept the appellants *Petition for Appeal*, and to grant NCES' *Assented-To Motion to Intervene*.

On May 7, 2003, Attorney Gould filed a *Motion to Dismiss Appeal* on behalf of NCES.

On May 12, 2003, Attorney Keith filed an *Objection* to [Attorney Gould's May 7, 2003] *Motion to Dismiss Appeal*. On May 12, 2003, Attorney Keith also filed a *Motion to Extend Time* [for filing] *and for Continuance*.

An appeal hearing was scheduled for May 22, 2003 at 11:00am and the parties to the appeal were notified by written hearing notice.

On May 22, 2003, prior to commencement of the scheduled appeal hearing in this matter, the Council convened a motions hearing to allow all parties to the appeal an opportunity to argue their respective positions relative to the May 7, 2003 *Motion to Dismiss Appeal*. Present at the hearing were Attorneys Keith, Smith, and Gould. After presentation by the parties and deliberation by the Council, the Council concluded that NCES met its burden relative to the *Motion to Dismiss Appeal* and the motion was granted. The Council then voted to dismiss the May 12, 2003 *Motion to Extend Time* [for filing] *and for Continuance* as moot.

On June 12, 2003, the Council issued its *Written Decision & Order* dismissing as moot the May 12, 2003, *Motion to Extend Time and for Continuance*.

On July 1, 2003, Attorney Keith filed a *Partially Assented-To Motion for Rehearing on* [its] *Motion to Extend Time*. In her filing, Attorney Keith asked that the Council reconsider that part of its June 12, 2003 order that dismissed as moot, the May 12, 2003 *Motion to Extend Time* for its submission of its objection to NCES' *Motion to Dismiss*, by ruling that the appellants objection be made part of the Councils record in this appeal.

Discussion

On July 24, 2003, at its regular Council meeting, the Council took up the *Partially Assented-To Motion for Rehearing on* [the Appellants] *Motion to Extend Time*. Present at this Council meeting were Attorneys Keith, Smith, and Gould. During the Councils discussions each of the Attorneys gave their assent to the motion in question. The Council voted to grant the motion and the relief requested therein.

Docket No. 03-05 WMC – Town of Bethlehem Appeal
Decision & Order on Motion for Rehearing on Motion to Extend Time
August 7, 2003

Order

Motion for Rehearing on the Appellants Motion to Extend Time is **GRANTED**.

So Ordered for the Council by: _____

COPY

Dated August 7, 2003

Michael Sclafani, Appeals Clerk